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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,648	07/14/2006	Max Witzemberger	4100-399PUS	2251

27799 7590 03/09/2009  
COHEN, PONTANI, LIEBERMAN & PAVANE LLP  
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SUITE 1210  
NEW YORK, NY 10176

EXAMINER
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ARCE, MARLON ALEXANDER

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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03/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,648	<b>Applicant(s)</b> WITZENBERGER ET AL.	
	<b>Examiner</b> MARLON A. ARCE	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18,23,25,27-31 and 33 is/are rejected.
- 7) ☒ Claim(s) 19-22,24,26,32 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 12/5/08 have been fully considered but they are not persuasive. The rejection based on Hall is going to be changed to a 35 U.S.C 103 rejection. Applicant arguments are related to structural direction of mechanical parts and it would have been obvious for someone skilled in the art at the time the invention was made to have the further drive element placed in line with the engine; Examiner believes that the direction of parts can be changed in order to have the parts be fitted into different type of vehicles or vehicles of different sizes. Also, Examiner likes to point out that all mechanical parts claimed can also be found in Hall and although the mechanical direction of the parts mentioned by Hall is not shown, it does not mean that those mechanical parts cannot be arranged in different directions.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18.23.25.27-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (US 5509491). Hall discloses a dual motor electric drive system comprising: an internal combustion engine (fig 4), a steering drive (114), a differential transmission (70,100) that has a traction drive element (74,104), a steering drive element (88,106), a pair of drive outputs (90,108) and a drive axle (92,110) aligned

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parallel to the engine and to a crankshaft that would come out of the engine; Hall further discloses a steering drive connection (116,118) connecting the steering drive to the steering drive element; a further drive element (48) transmitting power to the traction drive element and arranged in line with the combustion engine and transversely to the direction of travel. Regarding claim 23, Hall further discloses a generator attached to the engine (fig 4). Regarding claim 25, the further drive element is a traction motor.

Regarding claim 27, the steering drive (114) has an electric steering motor (Col 7, lines 27-30). Regarding claim 28, it is inherent to say that the traction motor and the steering motor have different currents driven by different driving circuits so that the motors rotate at different speeds. Regarding claim 29 and 31, the brakes (112,96) attached to the drive outputs can be seen as a retarder. Regarding claim 33, the gearbox (120) transmits the power from the further drive element to the differential transmission. Hall fails to mention the further drive being arranged in line with the engine transversely to the direction of travel. However; it would have been obvious for someone skilled in the art at the time the invention was made to change the mechanical location of the further drive in order to match the location of the engine in order to be placed in different types of vehicle or maybe a smaller crawl type vehicle. Examiner wants to point out that the transversely placement of the engine and the further drive relative to the direction of travel are just variations of mechanical connections; wherein, said mechanical connections are already present in Hall's invention.

***Allowable Subject Matter***

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4. Claims 19-22,24,26,32 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARLON A. ARCE whose telephone number is (571)272-1341. The examiner can normally be reached on Mon-Fri 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marlon Arce

3/3/09

MAA

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/Paul N. Dickson/

Supervisory Patent Examiner, Art Unit 3611